

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 409.2b(C) to permit 28 spaces in lieu of required 38 spaces. Section 409.2(C)(1) to permit existing spaces to be on street property line in lieu of required 8 ft. setback.

1. Size and shape of property
2. Existing Use

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) Signature Address City and State

Attorney for Petitioner: (Type or Print Name) Signature Address City and State

409 Washington Avenue, Suite 600
Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-6820

ORDERED By The Zoning Commissioner of Baltimore County, this 28th day of August, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 5th day of October, 1987, at 10:00 o'clock A.M.

ESTIMATED LENGTH OF HEARING 1 HR. AVAILABLE FOR HEARING

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - NW/cor. Reisterstown Road and Clarendon Avenue (802 Reisterstown Road) 2nd Election District 2nd Councilmanic District Trust Under Will of Allan L. Berman, et al - Petitioner

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve an amended site plan to permit a 1,000 gallon propane fuel tank and fuel sales in connection with a hardware store located in a B.L. zone, and additionally, variances to permit 28 parking spaces in lieu of the required 38 spaces, and to permit existing spaces to be on the street property line in lieu of the required 8-foot setback, all as more particularly described on Petitioner's Exhibit 1.

The Petitioner, represented by Carl R. Larkin, Manager of the Pikesville Hardware Store, appeared, testified and was represented by Counsel. Paul Lee, Engineer, appeared on behalf of the Petitioner as did Ron A. Zaab and Gregory Gozuvitch, both of United Propane. Officer G. L. Heubick of the Baltimore County Fire Department appeared but did not stay for the hearing. There were no Protestants.

Testimony indicated that the subject property, located on the southwest side of Reisterstown Road and the corner of the northwest side of Clarendon Avenue, is zoned B.L.-C.N.S., and is the site of a hardware store and "Garden Center". Testimony indicated that the hardware store has been on the site for more than 20 years. The propane tank has been on the site for approximately 3 to 4 years. As a result of a Fire Department inspection of other propane tanks in the County, United Propane and the Petitioner were advised that permits were required. The Petitioner was advised that the Office of Zoning would not sign any permits without the filing of an amended site plan and a Petition for Special Hearing.

PETITION FOR SPECIAL HEARING

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Baltimore County Zoning Regulations, to determine whether or not the Zoning Commissioner and/or Deputy Zoning Commissioner should approve an amended site plan and to permit 1,000 gallon propane tank in connection with hardware store IN A B.L. ZONE.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Special Hearing advertising, posting, etc., upon filing of this Petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: (Type or Print Name) Signature Address City and State

Attorney for Petitioner: (Type or Print Name) Signature Address City and State

409 Washington Avenue, Suite 600
Towson, Maryland 21204
City and State

Attorney's Telephone No.: (301) 296-6820

ORDERED By The Zoning Commissioner of Baltimore County, this 28th day of August, 1987, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be had before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 5th day of October, 1987, at 10:00 o'clock A.M.

Mr. Larkin testified that the sale of propane fuel is incidental to the hardware store business. Mr. Larkin testified he has been in the hardware business for approximately 15 years and has been the manager of the subject store for 1 month. Mr. Larkin testified that cooking grills are customarily sold from hardware stores and that approximately 90% of all grills sold are propane gas grills. Further, he testified that 90% of the propane fuel sales is to customers who are filling propane tanks for use with their gas grills. The remaining 10% of the sales is for customers filling tanks for their campers or to contractors. Mr. Larkin testified that kerosene is another inflammable fuel regularly sold from hardware stores as an incidental service. Mr. Larkin testified there is an existing chain link fence surrounding the tank. Customer's tanks are filled by only five (5) employees who have been trained to operate the tanks. The Petitioner argued that the location of the tank is a safe area. Mr. Lee testified that the installation and location of the propane tank was not detrimental to the health, safety, and general welfare of the community.

In a letter dated June 29, 1987 to the then Zoning Commissioner, Arnold Jablon, Charles Lee of the Maryland Department of Transportation, State Highway Administration, recommended the relocation of the propane tank to the rear portion of the site. In the same letter Mr. Lee indicated the variance of ten parking spaces could be absorbed by other commercial parking in the immediate area. In a letter dated June 18, 1987 to Arnold Jablon, Captain Joseph Kelly of the Baltimore County Fire Department made a notation that the existing location of the tank shown on the plan is not in compliance with the NFPA 58, 1976 Edition.

Officer Heubick of the Baltimore County Fire Department indicated to the Deputy Zoning Commissioner before he left that he spoke with the representative of United Propane and was satisfied that all problems the Fire Department had with the installation of the propane tanks had either been corrected or would be corrected.

Paul Lee P.E.

Paul Lee Engineering Inc.
308 W. Pennsylvania St.
Towson, Maryland 21204
301-821-5241

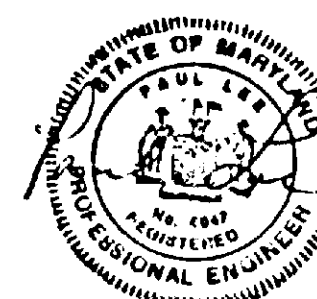
DESCRIPTION

802 REISTERSTOWN ROAD

2nd ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND

Beginning for the same at a point located at the intersection of the west side of Reisterstown Road with the north side of Clarendon Avenue, said point also being located 25' from the center of Clarendon Avenue; thence binding on the west side of Reisterstown Road; (1) Northwestly - 119.25', thence leaving said west side of Reisterstown Road, (2) S 62°25' W - 3.05', (3) S 64°30' W - 80.33', (4) N 25°30' W - 0.69', (5) S 64°29' W - 88.37', and (6) Southeastly - 119.61' to the north side of Clarendon Avenue; thence binding on the north side of Clarendon Avenue, (7) Northeastly - 179.5' to the point of beginning.

Containing 0.48 acres of land more or less.



J.O. 86-015
8/18/86
3/31/87 Rev.

Engineers - Surveyors - Site Planners

corrected. He further indicated that the Fire Department would have no objections to the proposed use provided there was compliance with the conditions imposed by the Fire Department.

The Petitioner's attorney, S. Eric DiNenna, Esquire, proffered that the Petitioner met with a group of people from the Pikesville Community Development Corporation prior to the hearing who indicated the community's main concern was not with the sale of propane fuel from the premises, but the parking variance. The proffered testimony indicated that the parking reflected on the amended site plan is adequate for the actual needs of the store. The hardware store has been in its present location for at least twenty years and Mr. Larkin testified there is no parking problem.

The Petitioner seeks relief from Section 409.2b., pursuant to Section 307 of the Baltimore County Zoning Regulations (BCZR).

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 203 (1973).

Based upon the testimony and evidence presented in this matter, the relief requested in the Petition for Special Hearing and the Petition for Zoning Variance should be granted. It is clear from the testimony that if the request for an amended site plan and variances were granted, the amendment and such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

Pursuant to the advertisement, posting of property, and public hearing on this Petition held, and after due consideration of the testimony and evidence presented, in the opinion of the Deputy Zoning Commissioner, the requested special hearing would be in strict harmony with the spirit and intent of the BCZR and would not be detrimental to the health, safety and general welfare of the community and should therefore be granted.

PETITIONS FOR SPECIAL HEARING AND VARIANCES

3rd Election District - 2nd Councilmanic District

Case No. 88-122-SPHA

LOCATION: Northwest Corner Reisterstown Road and Clarendon Avenue (802 Reisterstown Road)
DATE AND TIME: Monday, October 5, 1987, at 10:00 A.M.
PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Special Hearing to approve an amended site plan in Case No. 67-155-SPH and to permit a 1,000 gallon propane tank and fuel sales in connection with a hardware store in a B.L. Zone

Petition for Zoning Variance to permit 28 spaces in lieu of the required 38 spaces and existing spaces to be on the street property line in lieu of the required 8 foot setback

Being the property of Trust Under Will of Allan L. Berman, et al, as shown on plat filed with the Zoning Office.

In the event that this Petition(s) is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

J. ROBERT HAINES
ZONING COMMISSIONER
OF BALTIMORE COUNTY

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 16th day of December, 1987 that an amended site plan to permit a 1,000 gallon propane fuel tank and fuel sales in connection with a hardware store located in a B.L. zone, and additionally, variances to permit 28 parking spaces in lieu of the required 38 spaces, and to permit existing spaces to be on the street property line in lieu of the required 8-foot setback, in accordance with Petitioner's Exhibit 1, be approved, and as such, the Petitions for Special Hearing and Variances are hereby GRANTED, subject, however, to the following restrictions:

- 1) The Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the applicable appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.
- 2) The Petitioner shall obtain approval of the site plan marked Petitioner's Exhibit 1 from the Maryland Department of Transportation, State Highway Administration, and the Baltimore County Fire Department within 45 days of the date of this Order. Said approval shall be confirmed by authorized representatives from each department initialing the site plan. Thereafter the site plan shall be submitted to the Office of Zoning for approval.
- 3) If the Maryland Department of Transportation, State Highway Administration, and/or the Baltimore County Fire Department require a change in the site plan marked Petitioner's Exhibit 1, the Petitioner shall file a revised site plan that has been initialled by each department to the Zoning Commissioner or Deputy Zoning Commissioner for approval.
- 4) The Petitioner will train all employees who will be involved in the sale of propane fuel.
- 5) The sale of propane fuel on the property is permitted only as long as the hardware store/garden center continues to be the primary use of the property and the sale of propane gas cooking grills is incidental to the hardware store/garden center business.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
of Baltimore County

WCH:js

AUG 12 1988

Baltimore County
Fire Department
Towson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

June 18, 1987

Mr. Arnold Jablon
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204



Re: Property Owner: Trust U/W Allan L. Berman by Stephen Cooper
Location: SW/S Reisterstown Rd., corner of NW/S Clarendon Avenue

Item No.: 506 Zoning Agenda: Meeting of 6/16/87

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

* (X) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *Carl Lee Kelly 6/18/87* Noted and Approved: *John F. O'Neill*
Planning Group Fire Prevention Bureau
Special Inspection Division

* Existing location of tank shown on plan is not in compliance with NFPA 58, 1976 Edition, also plan shows 500 gallon tank.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 30, 1987

COUNTY OFFICE BLDG.
111 W. Chasewater Ave.
Towson, Maryland 21204

c/o

MEMBERS
Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial Development

S. Eric DiNenna, Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: Item No. 506 - Case No. 88-122-SPHA
Petitioner: Trust Under Will of Allen L. Berman, et al
Petitions for Special Hearing and Zoning Variance

Dear Mr. DiNenna:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above-referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:kkb

Enclosures

cc: Paul Lee Engineering, Inc.
304 W. Pennsylvania Avenue
Towson, Maryland 21204



Maryland Department of Transportation State Highway Administration

RICHARD H. TRAINER
Secretary
HAL KASSOFF
Administrator

June 29, 1987

Mr. A. Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Attention: Mr. James Dyer

Re: ZAC Meeting of 6-16-87
ITEM: #506.
Property Owner: Trust U/W Allan L. Berman by Stephen Cooper
Location: SW/S Reisterstown Road Route 140, corner of the NW/S Clarendon Avenue
Existing Zoning: B.L.
Proposed Zoning: Special Hearing to approve an amended site plan and to permit a 1000 gallon propane tank and fuel sales in connection with hardware store and Variance to permit 28 spaces in lieu of required 38 spaces and to permit existing spaces to be on the street property line in lieu of required 8 foot setback
Area: 0.48 acres
District: 3rd Election District

Dear Mr. Jablon:

On review of the submittal of 8-18-86, the State Highway Administration recommends the location of the propane tank (fuel sales) be located at the rear portion of the site.

In addition the variance of ten (10) parking spaces could be absorbed by other commercial parking in the immediate area.

Very truly yours,

Charles Lee
Charles Lee, Chief
Bureau of Engineering
Access Permits

By: George W. Wain

CL:GW:maw

cc: Mr. J. Ogle

My telephone number is (301) 333-1333 ZONING OFFICE

Teleprinter for Impaired Hearing or Speech
383-7555 Baltimore Metro - 585-0451 D.C. Metro - 1-800-432-5662 Statewide Toll Free
707 North Calvert St., Baltimore, Maryland 21203-0717

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Mr. J. Robert Haines
TO: Zoning Commissioner Date: September 18, 1987

Norman E. Gerber, AICP
FROM: Director of Planning and Zoning
Zoning Petitions No. 88-122-SPHA, 88-123-SPH,
88-124-XSPH, 88-125-SPH, 88-126-SPA, 88-127-A
SUBJECT: 88-123-A, 88-130-A, 88-131-A

There are no comprehensive planning factors requiring comment on the above numbered petitions.

Norman E. Gerber
Norman E. Gerber, AICP
Director

REG:KAK:dme

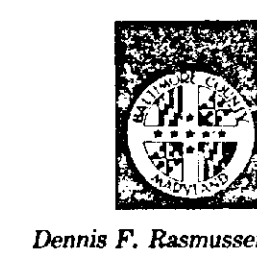
cc: Ms. Shirley M. Hess, Legal Assistant, People's Counsel
File

RECEIVED
SEP 25 1987

ZONING OFFICE

CPS-008

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554



July 9, 1987

Mr. Arnold Jablon
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Jablon:

The Bureau of Traffic Engineering has no comments for items number 500, 501, 504, 505, 506, 507, 508, 509, 510, 511, and 512.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Associate II

MSF:lt

December 16, 1987

S. Eric DiNenna, Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: Petitions for Special Hearing and Zoning Variance
NW/cor. Reisterstown Road and Clarendon Avenue (502 Reisterstown Road)
3rd Election District, 2nd Councilmanic District
Trust Under Will of Allan L. Berman, et al - Petitioner
Case No. 88-122-SPHA

Dear Mr. DiNenna:

Enclosed please find the decision rendered on the above-referenced case. The Petitions for Special Hearing and Zoning Variance have been Granted, subject to the restrictions noted in the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal to the County Board of Appeals. For further information on filing an appeal, please contact this office.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner

AMN:bjs

Enclosures

cc: People's Counsel

File

January 11, 1988

S. Eric DiNenna, Esquire
409 Washington Avenue, Suite 600
Towson, Maryland 21204

RE: Petitions for Special Exception and Special Hearing
SW/cor. Eastern Boulevard and Lynbrook Road (2925 Eastern Boulevard)
15th Election District; 5th Councilmanic District
Allen J. Dufour - Petitioner
Case No. 88-124-XSPH

Dear Mr. DiNenna:

As you are aware, the opinions in Case Nos. 88-122-SPHA, 88-123-SPH and 88-124-XSPH were issued on December 16, 1987. At that time there were outstanding advertising and posting fees due for each case.

As you know, the policy of this office requires that all advertising and posting fees be paid in full prior to the release of a decision. The opinions in the aforementioned cases were released in good faith and with the understanding that said fees would promptly be paid. However, to date such fees remain outstanding. If the advertising and posting fees for these cases are not paid in full by Monday, January 25, 1988, this matter will be turned over to the County Solicitor's office for legal action.

Furthermore, there still remains unpaid advertising and posting fees for Case No. 88-124-XSPH in the amount of \$91.99. Although the decision in the above-referenced case has been drafted, the opinion will not be signed until the advertising and posting fees are paid.

Your cooperation in this matter will be greatly appreciated. If you have any questions on the subject matters, please do not hesitate to call this office.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
of Baltimore County

AMN:bjs

cc: County Solicitor's Office

File (4)

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

Captain Joseph Kelly
TO: Fire Department Date: September 28, 1987

Betty du Bois
FROM: Zoning Office
Zoning Cases 88-122-SPHA, 88-123-SPH, 88-124-XSPH, 88-125-SPH and 88-126-SPH
Item Nos. 506 507 508 509 510
SUBJECT:

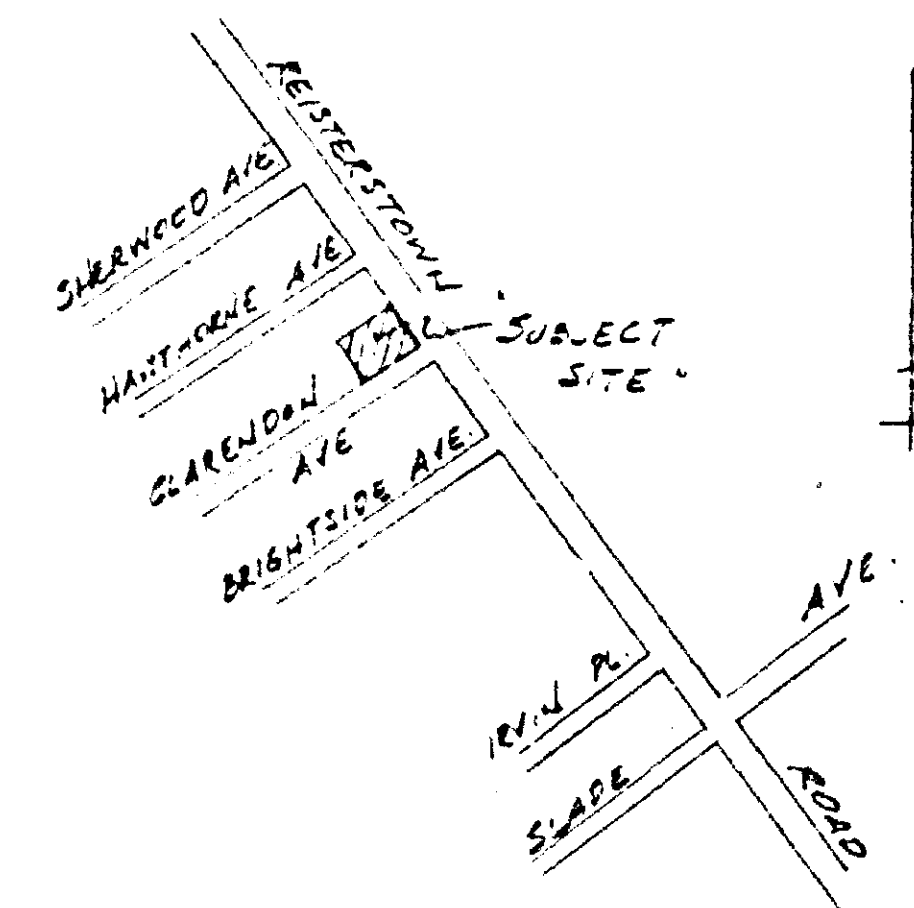
Pursuant to your request to Mr. Carl Richards, please be advised that the above-captioned propane cases will be heard at 11:30 a.m. on Monday, October 5, 1987.

If you have any further questions or comments, please feel free to contact me at 494-3394.

med

CPS-008

AUG 12 1988



GENERAL NOTES

1. AREA OF SITE : 0.48 AC.
2. EXISTING ZONING OF SITE : "BL-CNS"
3. EXISTING USE OF SITE : "GARDEN CENTER"
4. PROPOSED ZONING OF SITE : "BL-CNS"
5. PROPOSED USE OF SITE : "GARDEN CENTER"
6. REQUIRED PARKING SPACES:
EXISTING BUILDING : $1851 \times 240 / 200 = 10.61$ FS.
EXISTING STORAGE AREA : $53058 / 200 = 26.55$ FS.
TOTAL SPACES REQ'D. : $37.16 = 38$ FS
7. EXISTING PARKING SPACES SHOWN : 28 FS
8. PETITIONER REQUESTING A SPECIAL HEARING TO AMEND SITE PLAN
9. SITE CONNECTED TO PUBLIC UTILITIES
10. PETITIONER IS REQUESTING A VARIANCE TO SECTION 409.24(C) OF THE ZONING REGULATION TO PERMIT 28 PARKING SPACES IN LIEU OF REQUIRED 38 PARKING SPACES (A VARIANCE OF 10 PARKING SPACES)
11. PETITIONER IS REQUESTING A VARIANCE TO SECTION 409.26(C) OF THE ZONING REGULATIONS TO PERMIT EXISTING PARKING SPACES TO BE ON A STREET PROPERTY INSTEAD OF THE REQUIRED 8' A VARIANCE OF 8'

ENTIRE TERM
EXPIRES 1

PHOTOGRAPH
EAST

PLAT TO ACCOMPANY PETITION
FOR
SPECIAL HEARING AND VARIANCES
802 REISTERSTOWN ROAD

3RD ELECT. DIST. BALTIMORE CO., MD
SCALE: 1" = 20' AUG. 18, 1986

506
OFFICE COPY

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Your petition has been received and accepted for filing this
28th day of August, 19 87

J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER

Petitioner Trust Under Will of Allen L Received by: James E. Dyer
 Petitioner's Berman, et al Chairman, Zoning Plans
 Attorney S. Eric DiNenna, Esquire Advisory Committee

ENGINEER
PAUL LEE ENGINEERING, INC.
304 W. PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204



88-192-SHA
2 Signs

86-015